

• • R E M A R K S • •

The Official Action of June 5, 2002 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, claims 1-3 have been change to avoid antecedent basis problems and to more clearly describe applicants' invention in accordance with 35 U.S.C. §112, second paragraph.

In addition, new claim 4 has been added which depends on claim 1 and recites that the plurality of fine fusion spots comprises discrete spots that penetrate into the inner surface of the wing. Support for this limitation can be readily found in applicants' Fig. 4 which depicts the fusion spots 20 as penetrating the inner surface of the wings.

Entry of the changes to the claims is respectfully requested.

Claims 1-4 are pending in this application.

Claims 1-3 stand rejected under 35 U.S.C. §112, second paragraph. Under this rejection the Examiner has noted several instances in the claim language that either lacked clear antecedent basis or which otherwise rendered the claims indefinite.

In response to the rejection of the claims under 35 U.S.C. §112, second paragraph, the claims have been amended herein to correct the matters noted by the Examiner.

Reconsideration and withdrawal of the outstanding rejection of the claims under 35 U.S.C. §112, second paragraph is requested.

Claims 1-3 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,050,985 to Lavon et al.

For the reasons set forth below, it is submitted that each of the pending claims are patentable over Lavon et al. and therefore, the outstanding rejection of the claims over Lavon et al. should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Lavon et al. as disclosing:

...the use of a diaper (20) with a topsheet (24), backsheet (26), core (28), first waist region (40), second waist region (42), and crotch region located there between (See Figure 3). Lavon discloses the use of wings (52) formed on side portions of one waist region, with mechanical fasteners (34) located on the outside edge (column 19, lines 58-68). Lavon discloses the wings being thermoplastic synthetic polymers (column 10, lines 35-45) and has a pattern that is formed on the wings being formed by thermobonding or embossing (column 11, lines 55-58), the examiner considers the embossed or thermobonded pattern, to be a plurality of fusion spots as seen in Figures 3 and 4, only the outside of the wings have the embossed pattern, and the inner portion does not have an embossed or thermobonded portion, therefore the outer side regions have a greater amount than the inner portions.

Lavon et al. is directed to an absorbent article that includes an "extensible waist belt 32 that provides improved fit and containment" (column 9, lines 12-13).

While the waist belt 32 may be constructed from a number of different extensible materials as are known in the art, the waist belt, for performance and cost reasons, is preferably constructed of a structural elastic-like film (SELF) web." (column 10, lines 24-27)

At column 10, lines 46-47 Lavon et al. states that:

Referring to FIGS. 5 and 5A, the SELF web includes a "strainable network" of distinct regions. As used herein, the term "strainable network" refers to an interconnected and interrelated group of regions which are able to be extended to

some useful degree in a predetermined direction providing the SELF web with an elastic-like behavior in response to an applied and subsequently released elongation.

At column 11, lines 55-58 (cited by the Examiner) Lavon et al. teach that:

Methods for forming SELF web materials include, but are not limited to, embossing by mating plates or rolls, thermoforming, high pressure hydraulic forming or casting.

The Examiner has taken the position that she "considers the embossed or thermobonded pattern, to be a plurality of fusion spots as seen in Figures 3 and 4."

A careful review of Lavon et al. seems to indicate that the Examiner's reference to "thermobonded" is misleading, because Lavon does not teach forming the SELF web by a thermobonding method.

At column 11, lines 55-57, Lavon et al. teach "thermoforming." "Thermoforming" does not involve "bonding" or melting or fusing materials together.

At column 13, lines 9-12, Lavon et al. teaches that:

The rib-like elements 74 are able to unbend or geometrically deform in a direction substantially perpendicular to their first axis 76 to allow extension in the SELF web 52.

In addition to not teaching thermobonding as the Examiner contends, it is submitted that the function of the rib-like elements unbending as taught by Lavon et al. excludes the use of thermobonded, or melted or fused structures which would not be able to unbend and extend and return to their original position.

It is accordingly submitted that Lavon et al. does not teach applicants' claimed plurality of fine fusion spots and therefore, does not anticipate applicants' claimed invention.

New claim 4 further distinguishes over Lavon et al. inasmuch as Lavon et al. does not teach structures that penetrate into the surface of the waistband.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Lavon et al. as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

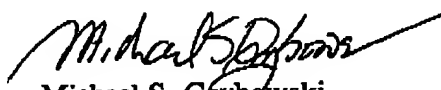
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

The prior art cited on page 4 of the Official Action, but not relied upon by the Examiner has been noted, but is not deemed to be particularly relevant to applicants' claimed invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-0385 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Marked-Up Copy of the Claims
As Amended on September 5, 2002

1. (Twice Amended) A disposable diaper comprising:
 - a liquid-pervious topsheet;
 - a liquid-impervious backsheet;
 - a liquid-absorbent core disposed between said liquid-pervious topsheet and said liquid-impervious backsheet;
 - a front waist region;
 - a rear waist region;
 - a crotch region extending between said front waist region and said rear waist region in a longitudinal direction of the diaper;
 - wings formed on transversely opposite side portions of said rear waist region and extending outward in a circumferential direction intersecting said longitudinal [direction;] direction, said wings having inner and outer surfaces and circumferentially outer side edges and circumferentially inner side regions; and
 - fastener sections formed on said wings and extending outward in said circumferential direction [and provided on] said fastener sections having inner surfaces [thereof with] and male mechanical fasteners [members,] members formed on and extending from said inner surfaces.
 - said wings comprising a nonwoven fabric made of thermoplastic synthetic fibers, said nonwoven fabric partially [extending] extends outward from the circumferentially outer side

regions of said wings to form said fastener sections which [are, in turn,] are provided on the inner surfaces [thereof] of the wings, [with said male mechanical fastener members,]

said wings being formed on the inner surfaces thereof with a plurality of fine fusion spots at which said fibers are fused together, said plurality of fine fusion spots being arranged so that there is a greater number of said fine fusion spots per unit area in said outer side regions of said wings than in inner regions of said wings that extend inward from said outer side regions.

2. (Twice Amended) The diaper according to Claim 1, wherein said nonwoven fabric is stiffer in said circumferentially outer side regions of said wings that in said circumferentially inner side regions of said wings.

3. (Twice Amended) The diaper according to Claim 1, wherein said male mechanical fastener members are [peelably] releasably engaged with said inner side regions of said wings.

New claim 4 has been added as follows:

4. (New) The diaper according to Claim 1 wherein said plurality of fine fusion spots comprise discrete spots that penetrate into the inner surface of the wing.